

REMARKS

Claims 1-8 are pending in the Application. Claims 1-4 and 6-8 are rejected under 35 U.S.C. § 103(a).

Applicants respectfully traverse for at least the reasons stated in the response with a mailing date of May 4, 2004. However, merely to advance prosecution, Applicants cancel claim 1 without prejudice or disclaimer. Applicants reserve the right to file a continuation application to capture the subject matter of originally filed claim 1.

Claim 5 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have amended claim 5 to be rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have amended claims 2-4 and 6-8 to be dependent upon amended 5 and therefore claims 2-8 are allowable. Applicants kindly request the Examiner to issue a notice of allowance allowing claims 2-8.

Applicants note that claim 5 were not amended to overcome prior art but to be written in independent form. Applicants further note that claims 2-4 and 6-8 were not amended to overcome prior art but in response to canceling claim 1. Hence, the amendments made to claims 2-8 were not narrowing in scope and therefore no prosecution history estoppel arises from the amendments to claims 2-8. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 2-8 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 2-8 in the Application are in condition for allowance, and respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: 

Kelly K. Kordzik

Reg. No. 36,571

Robert A. Voigt, Jr.

Reg. No. 47,159

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

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